

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1300 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT ELECTRICITY BOARD

Versus

BALARAM CEMENT LIMITED

Appearance:

MR NK MAJMUDAR for Petitioner

MRS VASAVDATTA BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 10/11/97

ORAL JUDGEMENT

Rule. Service of rule waived by Mrs. Vasavdatta Bhatt, learned advocate for respondent appearing on caveat.

2. Heard. The order impugned in this revision application is one passed below exh. 61 in Regular Civil Suit No. 126 of 1995 by the learned trial Judge (5th

Joint Civil Judge Senior Division, Palanpur) on 26/8/1997. By the impugned order the learned trial Judge directed the petitioner - GEB (Gujarat Electricity Board) to pay Rs.22,10,578/- to the respondent (plaintiff of the original suit). Short grievance of the petitioner is that apart from other contentions it was also the contention of the petitioner Board that the working of the amount sought to be refunded was under dispute. According to the petitioner-Board the amount would not have exceeded Rs.14 lacs to Rs. 15 lacs. Whereas according to the respondent-plaintiff the amount would have been Rs.32 lacs. The learned trial Judge has directed refund of Rs.22 lacs and odd. After some amount of submissions it was suggested on behalf of the respondent that there can be ad-hoc adjustment of the claim of refund against bill of July 1997. The bill of July 1997 is for Rs.19,37,524/-. The actual working of the amount required to be refunded should be left to the learned trial Judge at the time of hearing of injunction application exh. 5. Having heard Mr. Majmudar for the petitioner I am of the opinion that interim arrangement as suggested above, would serve the ends of justice. Following direction is, therefore, required to be issued:-

Impugned order shall stand modified as under:-

There shall be ad-hoc refund subject to contentions of the parties and subject to actual working of amount of refund at the time of hearing interim injunction application exh. 5 and such ad-hoc refund shall be equivalent to the bill of July 1997, which is for the sum of Rs.19,37,524/-. It is clarified that this ad-hoc adjustment towards the bill of July 1997 shall be subject to actual working of the amount at the time of hearing of the interim injunction application exh. 5. It is further clarified that the bill for July 1997 shall not be enforced by the petitioner-Board and no cash refund shall be paid by the petitioner-Board. It is further directed that the learned trial Judge will hear the interim injunction application exh. 5 as expeditiously as possible, preferably within a period of 8 weeks from the date of receipt of writ of this direction and at the time of such hearing the parties will also be at liberty to give their fresh calculations. The impugned order shall stand modified accordingly.

Rule made absolute in the aforesaid terms only.
No order as to cost.

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